IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

MACA.No. 1597 of 2006()

OPMV.1364/2001 of ADDL.MOTOR ACCIDENT CLAIMS TRIBUNAL,KOTTAYAM

APPELLANT-PETITIONER

SURESH.P.C., NEDIYAKALAYIL HOUSE,
VALIYALUMCHUVADU BHAGOM, KUMARANALLOOR P.O.,
PERUMPAIKADU VILLAGE, KOTTAYAM.

BY ADV. SRI.MATHEW JOHN (K)
SRI.SUJESH MENON V.B.

RESPONDENTS - RESPONDENTS:

1. NAVAS.E., THOTTIKALAYIL,
PERUMPAIKADU P.O., KOTTAYAM.

2. IBRAHIM, DO. DO.

3. THE NEW INDIA ASSURANCE COMPANY LTD.,
MOOVATTUPUZHA.

4. JOSE KAKKANATTU, KAKKANATTU HOUSE,
PERUMBALLOOR P.O., MOOVATTUPUZHA.

BY ADV. SMT.V.O.PHILOMINA
SRI.N.S.MOHAMED USMAN

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 29/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K. PADMANABHAN NAIR, J.

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M.A.C.A. NO. 1597 OF 2006

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Dated this the 29th day of June, 2007

J U D G M E N T

Petitioner in O.P(MV) No.1364 of 2001 on the file of the Additional Motor Accidents Claims Tribunal, Kottayam is the appellant. This appeal is filed on the ground of inadequacy of the quantum of compensation awarded to the appellant.

2. Petitioner met with a motor vehicle accident at 3.30 p.m. on 23.4.2001 and sustained injuries. He filed the O.P. claiming compensation impleading the owner, driver and Insurer of the vehicle. Tribunal found that the accident occurred due to the negligence of the driver of the offending vehicle. Tribunal also fixed Rs.23,000/- as compensation. Third respondent-Insurer was directed to pay the said amount. Complaining that the quantum of compensation awarded is meagre, petitioner has filed this appeal.

3. Findings regarding negligence as also the liability of Insurer have become final and conclusive. So the only question to be considered is whether the appellant is entitled

to get any further amount as additional compensation.

4. Appellant claimed that he was earning a sum of Rs.4,500/- per mensm. In Exhibit A8 it was stated that appellant was admitted in the hospital on 24.4.2001 and discharged on 25.4.2001. The Tribunal fixed the monthly income of the appellant at Rs.2,500/- and awarded compensation for loss of earning only for two months. I am of the view that the Tribunal ought to have awarded compensation for loss of earning for 3 months. So the appellant is entitled to get an additional compensation of Rs.2,500/- towards loss of earning. Appellant was awarded Rs.7,500/- towards pain and suffering. Considering the injuries sustained and the repeated treatment the appellant underwent for removal of glass pieces, the Tribunal ought to have awarded Rs.10,000/- towards compensation for pain and suffering. So the appellant is entitled to get an additional compensation of Rs.2,500/- under that count also.

in the result, the appeal is allowed in part. An award is passed in favour of the appellant allowing him to recover an additional compensation of Rs.5,000/- with interest at the rate

of 6% per annum from the date of petition till date of realisation. The Insurer is directed to deposit that amount also. On deposit, the appellant can withdraw the whole amount.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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M.F.A.

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J U D G M E N T

29TH JUNE, 2007